

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI
(ABERDEEN DIVISIONAL OFFICE)

IN RE:

CASE NUMBER: 18-11980-JDW

CHARLENE GARDNER ODOM

CHAPTER 13

DEBTOR

MOTION TO LIFT STAY AND TO APPLY INSURANCE PROCEEDS

AmeriCredit Financial Services, Inc. dba GM Financial (“Secured Creditor”), a creditor holding a secured claim, represents that:

1. This Court has jurisdiction over this proceeding and all parties hereto pursuant to 28 U.S.C., Sections 157 and 1334.

2. On May 22, 2018, Charlene Gardner Odom (the “Debtor”) filed with this Court a voluntary petition under Chapter 13 of the Bankruptcy Code.

3. Secured Creditor is the holder of a Retail Installment Contract and Security Agreement (“Contract”) executed by the Debtor on June 11, 2016, which granted a security interest to Secured Creditor in a 2016 Hyundai Sonata (“Vehicle”). A copy of the Contract is attached as Exhibit “A.” As shown by the Certificate of Title attached as Exhibit “B,” the Debtor is the owner of record of the Vehicle.

4. Upon information and belief, the Vehicle was involved in an accident and declared a total loss.

5. Secured Creditor has agreed to release the lien on the Vehicle in return for the insurance proceeds.

6. As of May 23, 2019, the Debtor owed Secured Creditor \$17,121.05 on it secured portion of its claim, plus interest accruing thereafter. The contractual balance owed is \$19,335.70.

7. The insurance proceeds total \$10,214.19, and Secured Creditor reserves its right to seek reimbursement for the unsecured portion of its claim, including any deficiency balance.

8. The Debtor has no equity in the Vehicle and, therefore, there is no cushion to protect against depreciation.

9. The Debtor has failed to provide other means of adequate protection.

10. Pursuant to 11 U.S.C. §362(d)(1), the Debtor's failure to provide adequate protection to the creditor's interest in the property is a cause for the granting of relief from the stay.

WHEREFORE, AmeriCredit Financial Services, Inc. dba GM Financial prays that the Court enter an order granting relief described as follows:

1. Termination of the automatic stay to allow Secured Creditor to foreclose on its interest in the above described property to receive the insurance proceeds; and/or

2. Authorization for the Debtor to surrender voluntarily the above described property to Secured Creditor; and/or

3. That Secured Creditor be allowed to apply the insurance proceeds, with any deficiency treated as all other general unsecured claims; and/or

4. That any order remain in effect regardless of conversion to another Chapter; and/or

5. For such other and further relief to which Secured Creditor may be entitled.

THE SUNDMAKER FIRM, L.L.C.

/s/ Gregory J. Walsh
GREGORY J. WALSH (#104344)
1027 Ninth Street
New Orleans, LA 70115
Telephone: (504) 568-0517
Fax: (504) 568-0519
greg@sundmakerfirm.com
Attorney for Secured Creditor

CERTIFICATE OF SERVICE

I certify that the foregoing has been served on all interested parties as listed below by depositing same in the U.S. Mail, postage prepaid, and/or by electronic mail this 29th day of May, 2019:

Locke D. Barkley
6360 I-55 North
Suite 140
Jackson, MS 39211

United States Trustee
501 East Court Street
Suite 6-430
Jackson, MS 39201

Gwendolyn Baptist-Rucker
1305 Church Rd. E.
P.O. Box 312
Southaven, MS 38671

Charlene Gardner Odom
739 Powell Street
Coldwater, MS 38618

/s/ Gregory J. Walsh
Gregory J. Walsh

CERTIFICATE OF TITLE

Form 79-001-11-7-1-000

STATE OF MISSISSIPPI

ORIGINAL

VEHICLE IDENTIFICATION NUMBER	MAKE	YEAR	MODEL	BODY	TITLE NUMBER
5NPE24AF9GH421190	HYUN	2016	SSE	4D	H691383-01

TITLE DATE	DATE OF FIRST SALE FOR USE NEW ONLY	NO. CYL.	NEW / USED	PASS, TYPE OF VEHICLE OR GVW
08182016	06112016	04	X	PASS 000

ODOMETER - TENTHS NOT INCLUDED

000010

ACTUAL MILEAGE

OWNER

GARDNER CHARLENE
739 POWELL ST
COLDWATER MS 38618

1ST LIENHOLDER (OR OWNER IF NO LIEN)

AMERICREDIT FINANCIAL SERV
P O BOX 1510
COCKEYSVILLE MD 21030

DATE:

MONTH | DAY | YEAR

06/11/2016

2ND LIENHOLDER

DATE:

MONTH | DAY | YEAR

LIEN SATISFACTION: THE UNDERSIGNED HOLDER OF ABOVE DESCRIBED LIEN(S) ON THE MOTOR VEHICLE DESCRIBED HEREON HEREBY ACKNOWLEDGES SATISFACTION THEREOF.

1ST LIEN (LIENHOLDER) BY (SIGNATURE AND TITLE)
THIS DAY OF 20

2ND LIEN (LIENHOLDER) BY (SIGNATURE AND TITLE)
THIS DAY OF 20

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND THIS

THE

18 DAY OF AUGUST 20 16

CONTROL NUMBER
21377354

MISSISSIPPI DEPARTMENT OF REVENUE

Hebe Frierson

VOID IF ALTERED

The Mississippi Department of Revenue hereby certifies that on application duly made, the person named herein is registered by this office as the lawful owner of the vehicle described subject to the liens or security interests as may subsequently be filed with the Mississippi Department of Revenue. This certificate of title is issued pursuant to the Mississippi Motor Vehicle Title Law Section 63-21-1, Mississippi Code of 1972, and subject to the provisions thereof.

LP